REMARKS

Applicant has carefully studied the outstanding Official Action. The present amendment is intended to be fully responsive to all points of rejection and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the present application are hereby respectfully requested.

With respect to the Information Disclosure Statement, Applicant believes that providing a statement of relevance for each of the cited references by the Applicant may affect the objective consideration of the application and also, since the requirement for a concise statement of the relevance of each item of information listed in an information disclosure statement has been eliminated in most cases, provision of a statement of relevance for each of the references cited in the Information Disclosure Statement in the present application is deemed to be unnecessary.

Claims 1 – 14, 26 – 30 and 33 were examined. Claims 15 – 25, 31 and 32, which belong to the group of claims that were withdrawn from consideration, have been canceled. Claims 12 – 14, 29, 30 and 33 have also been canceled. New claims 34 – 52 have been added. Thus, claims 1 – 11, 26 – 28, and 34 – 52 are now pending in the application.

Claims 6 and 14 stand rejected under 35 USC 112, second paragraph, as being indefinite. The Examiner takes the position that it is not clear if the recitation "about zero" includes or excludes zero; and if not, that it is not clear what "about zero" is limited to in terms of a non-zero number.

Claim 6 has been amended to recite that the bit-rate difference threshold is about zero so that the single channel wavelength carries optical packets that are provided at substantially similar bit rates.

The amendment to claim 6 is supported, inter alia, by the specification from the first full paragraph on page 33 through the last paragraph on page 33.

Since in amended claim 6 the bit-rate difference threshold is expressed through the substantially similar bit rates of the optical packets carried over the single channel wavelength, it is inherent that "about zero" includes both

zero and approximately zero.

Claim 14 has been canceled without prejudice.

Claims 12 – 14, 29, 30 and 33 stand rejected under 35 USC 102(e) as being anticipated by US Patent 6,288,808 to Lee et al ("Lee").

Claims 12 and 33 further stand rejected under the judicially created doctrine of double patenting over claims 1 and 17 of US Patent No. 6,763,191.

Claims 12 and 33 also stand provisionally rejected under the judicially created doctrine of double patenting over claims 1 and 9 of copending Application No. 09/976,243.

Claims 12 – 14, 29, 30 and 33 have been canceled without prejudice. Therefore, any discussion regarding the rejections raised in the outstanding Official Action with respect to claims 12 – 14, 29, 30 and 33 is deemed to be unnecessary.

Claims 1 – 11 and 26 – 28 stand rejected under 35 USC 103(a) as being unpatentable over US Patent 6,288,808 to Lee et al ("Lee") in view of published US Patent Application Publication No. 2003/0156841 of Chraplyvy et al ("Chraplyvy").

Lee describes an optical asynchronous transfer mode ATM switch for recovering the limitation of processing capacity and performing large capacity of switching.

Chraplyvy describes an optical transmission system which exploits the reduced signal-to-noise (SNR) requirements for low-bit rate channels to devise a new wavelength channel allocation scheme which increases the number of channels that a WDM system can support.

Claim 1 refers to an optical packet switching method for use at a switching node that receives a first optical packet on a first input path at a first bit-rate and a second optical packet on a second input path at a second bit-rate, and recites a combination comprising routing the first optical packet to a destination over a first channel wavelength and the second optical packet to the destination over a second channel wavelength if a magnitude of a difference between the first bit-rate and the second bit-rate exceeds a bit-rate difference threshold, and routing the first optical packet and the second optical packet to the destination at separate time slots

over a single channel wavelength if the magnitude of a difference between the first bit-rate and the second bit-rate does not exceed the bit-rate difference threshold.

It is respectfully submitted that Lee and Chraplyvy do not show or suggest the combination recited in claim 1. Specifically, Lee does not refer to optical packets provided at different bit-rates, and Chraplyvy does not refer to optical packets at all and also does not refer to switching and to routing.

Additionally, Lee performs WDM-to-TDM conversion of all optical channels multiplexed by WDM that are provided via a transmission link to a WDM-to-TDM Conversion Module into a primary wavelength (see in Lee, for example, the Abstract, Figs. 3 and 4, col. 3, lines 3 – 24 and col. 4, lines 26 – 60). If Lee is combined with Chraplyvy, all optical signals provided via the transmission link will always be carried over the primary wavelength regardless of the wavelengths over which the optical signals are inputted to the WDM-to-TDM Conversion Module and regardless of the bit-rates of the optical signals. Thus, in a combination of Lee with Chraplyvy low bit-rate signals carried over the low bit-rate channels of Chraplyvy and high bit-rate signals carried over the high bit-rate channels of Chraplyvy will always be combined and routed together over the primary wavelength of Lee. The combination of Lee with Chraplyvy therefore provides a result which is in contrast to the scope of the present invention and combining Lee with Chraplyvy cannot show or suggest the combination recited in claim 1 which comprises routing the first optical packet to a destination over a first channel wavelength and the second optical packet to the destination over a second channel wavelength if a magnitude of a difference between the first bit-rate and the second bit-rate exceeds a bit-rate difference threshold, and routing the first optical packet and the second optical packet to the destination at separate time slots over a single channel wavelength if the magnitude of a difference between the first bit-rate and the second bit-rate does not exceed the bit-rate difference threshold.

Further additionally, since, as mentioned above, in a combination of Lee with Chraplyvy the low bit-rate signals carried over the low bit-rate channels of Chraplyvy and the high bit-rate signals carried over the high bit-rate channels of Chraplyvy will always be combined and routed together over the primary

wavelength of Lee, the combination of Lee with Chraplyvy does not distinguish among wavelengths carrying low bit-rate signals and wavelengths carrying high bit-rate signals and also does not distinguish among wavelengths within a passband and wavelengths outside a passband. Therefore, the entire wavelength channel allocation scheme of Chraplyvy is destroyed. Combining Lee with Chraplyvy is therefore meaningless and does not make sense because it is not expected that a person skilled in the art will perform a combination of elements which results in destruction of one of the elements.

In this respect it is also respectfully submitted that if the combination of Lee with Chraplyvy is meaningless and does not make sense, then there also cannot be a motivation to combine Lee with Chraplyvy.

It is further respectfully submitted that neither Lee nor Chraplyvy suggest any combination of Lee with Chraplyvy.

Combining Lee with Chraplyvy is therefore inappropriate for rejecting claim 1.

Thus, Applicant respectfully points out that the Examiner has failed to make a *prima facie* case for the unpatentability of claim 1.

Claim 1 is therefore deemed allowable.

Claims 2 – 6 depend directly or indirectly from claim 1 and recite additional patentable subject matter.

Claims 2 – 6 are therefore deemed allowable.

The arguments submitted above with respect to the patentability of claim 1 also apply to claim 7.

Claim 7 is therefore deemed allowable.

Claim 8 depends from claim 7 and recites additional patentable subject matter.

Claim 8 is therefore deemed allowable.

The arguments submitted above with respect to the patentability of claim 1 also apply to claim 9.

Claim 9 is therefore deemed allowable.

Claims 10 and 11 depend from claim 9 and recite additional patentable subject matter.

Claims 10 and 11 are therefore deemed allowable.

The arguments submitted above with respect to the patentability of claims 1, 7 and 9 also apply to claims 26 – 28, respectively.

Claims 26 – 28 are therefore deemed allowable.

New claims 34 – 52 have been added. New claims 34 – 52 are directed to the invention elected for examination.

New claim 34 is supported, inter alia, by Figs. 4A and 4B and by the third paragraph on page 32 of the specification.

Claim 35 is supported, inter alia, by the first paragraph on page 34 of the specification.

Claim 36 is supported, inter alia, by the paragraph bridging pages 32 and 33 of the specification.

Claim 37 is supported, inter alia, by the fourth paragraph on page 32 of the specification.

Claim 38 is supported, inter alia, by the third and fourth paragraphs on page 32 of the specification.

Claims 34 – 38 depend from claim 1 and recite additional patentable subject matter.

Claims 34 – 38 are therefore deemed allowable.

Claims 39 and 40 are supported similarly to claims 4 and 5, respectively.

Claims 39 and 40 depend directly or indirectly from claim 7 and recite additional patentable subject matter.

Claims 39 and 40 are therefore deemed allowable.

Claims 41 and 42 are supported similarly to claims 34 and 35, respectively, and further by Figs. 1 and 3 and by the following places in the specification: the third paragraph on page 20; and the paragraph bridging pages 27 and 28.

Claims 43 – 45 are supported similarly to claims 36 – 38, respectively.

Claim 46 is supported, inter alia, by the first full paragraph on page 24 of the specification.

Claim 47 is supported, inter alia, by the second paragraph on page 27 of the specification.

Claim 48 is supported, inter alia, by the specification from the paragraph bridging pages 28 and 29 through the third full paragraph on page 29.

Claim 49 is supported, inter alia, by the first paragraph on page 22 of the specification.

Claim 50 is supported, inter alia, by the third full paragraph on page 24 of the specification.

Claims 41 – 50 depend directly or indirectly from claim 26 and recite additional patentable subject matter.

Claims 41 – 50 are therefore deemed allowable.

Claim 51 is supported similarly to claim 7.

The arguments submitted above with respect to the patentability of claim 7 also apply to claim 51.

Claim 51 is therefore deemed allowable.

Claim 52 is supported similarly to claim 8.

Claim 52 depends from claim 51 and recites additional patentable subject matter.

Claim 52 is therefore deemed allowable.

In view of the foregoing amendments and remarks, it is respectfully submitted that the present application is now in condition for allowance. Favorable reconsideration and allowance of the present application are respectfully requested.

Respectfully submitted,

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